

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

OCT 1 2015

**CLERK, U.S. DIST. COURT
WESTERN DIST. OF TENN**

GENERAL CONFERENCE)
CORPORATION OF SEVENTH-DAY)
ADVENTISTS and GENERAL CONFERENCE)
OF SEVENTH-DAY ADVENTISTS,)
)
Plaintiffs,)
v.)
)
WALTER MCGILL d/b/a CREATION)
SEVENTH DAY ADVENTIST CHURCH)
et al.,)
)
Defendant.)

Case Nos.: 1:15-mc-00009
1:06-cv-01207

STATEMENT OF FACTS IN RESPONSE TO PLAINTIFF'S REPLY TO OBJECTION

Dr. David Aguilar, acting *pro se*, respectfully submits the following statement of facts in response to Plaintiff's Reply to the Objection Filed by David Aguilar ("Plaintiff's Reply"). Plaintiff's Reply raises multiple questions of first impression, including certain specific complaints of which Dr. Aguilar was not aware before the filing and has since taken action to correct. Dr. Aguilar hereby certifies to the Court that the following facts are true upon information and belief:

1) Plaintiffs have requested the Court in a country to which Dr. Aguilar is neither citizen nor resident to seize multiple websites under his ownership in a lawsuit in which he is not named as a party. Plaintiffs failed to notify Dr. Aguilar of the motion in question, expressed uncertainty as to whether Dr. Aguilar should be allowed to object to those portions of the motion that directly affect him once he discovered the motion's existence, and now imply that Dr. Aguilar's objection was ghost written by a lawyer. Despite Plaintiff's repeated attempts to seize his property without trial or hearing, Dr. Aguilar has not sought the counsel of an attorney, and neither objection nor the current filing were written by or under the direction of a lawyer. Both Dr. Aguilar's objection and the instant statement of facts make use of the third person in order to better imitate and preserve the language to which the Court is accustomed.

2) Dr. Aguilar has communicated with all parties involved in this litigation openly and honestly. The Plaintiff has insinuated that Dr. Aguilar has been deceptive or faulty in his communication with the Court, falsely claiming at one point that his listed telephone number originates in Central Arkansas rather than Central America, in which his home country of Belize, C.A. is located. Dr. Aguilar's phone number—including the +501 country code—is correctly entered. Dr. Aguilar has included the exit code for dialing internationally from within the U.S. in his signature block for the present filing, in order to save Plaintiffs the evidently substantial burden of research.

3) Plaintiff's Reply rests upon supposed similarities with a non-appellate case from the 2nd Circuit (*A.V. by Versace, Inc. v. Gianni Versace S.P.A.*) in order to make their case for jurisdiction. Plaintiffs did not see fit to inform the Court that the Defendant in that case, Alfredo Versace, was a United States resident over which the Court had previously established personal jurisdiction. ("Background," 87 F.Supp.2d 284, (2000))

4) Dr. Aguilar, unlike the Defendant in *Versace*, is neither a resident nor citizen of the United States.

5) Dr. Aguilar has not raised his prior knowledge of the lawsuit to the Court as it is not relevant to determining the Court's legitimate jurisdiction, nor is his motive for choosing to return to his country of birth. The Court is further already well aware of Dr. Aguilar's adherence to the Creation 7th Day Adventist faith, and has stated on the record that he is outside of its jurisdiction:

"THE COURT: When the Court has issued sanctions — and I'll have to go back and review those and — if it were to appear to the Court that you've — would — in the Court's view be required to have additional sanctions against you, would Mr. McGill or **Mr. Aguilar come back into the country, into the jurisdiction of this Court** [...] (Motion Hearing before Judge Bryant, December 16, 2010; Tr. Pg. 75, L. 19-25, attached hereto as "Exhibit 1")

6) Faithofjesus.to is a historical archive of the Creation 7th Day Adventist website, made accessible for informational, historical, and educational purposes only to an international audience. This is explained on the front page of the site (attached hereto as "Exhibit 2").

7) Dr. Aguilar has made sincere efforts to ensure that his sites contain no possibility of commerce with the United States. The list of links contained in footnote 8 of Plaintiff's Reply contains certain pages that are hosted for historical and informational value, and at times contain outdated links and information. Plaintiff's Reply marks the first time Dr. Aguilar has been notified of these specific potentially commercial elements on either faithofjesus.to or adventistry.to.

8) No literature or materials have been distributed to United States residents in association with any page hosted at faithofjesus.to or adventistry.to, and no financial contributions or transactions have taken place with United States residents originating from any page hosted at faithofjesus.to or adventistry.to.

9) The "evangelism_resources.html" page, which incorrectly had a link soliciting donations, has been removed from faithofjesus.to.

10) The "assocsda.html" page has had all references to free literature and material mailings removed.

11) The "camp_meetings.html" page contains a list of dates and times held sacred by those practicing the faith of Creation 7th Day Adventism, and continues to be displayed for its informational value as such. It contains no locations, directions for meeting, or other information that might tie it to the United States or any other territory.

12) "Adventistry.to" consists of a web page with pictures, contact information, and incorporation certificates for a company in Uganda that exists and operates legally within that country. (attached hereto as "Exhibit 3") It does not contain any reference to religious goods or services, nor offer any such services or materials to United States citizens.

CERTIFICATE OF SERVICE

I hereby certify that on this the 28 day of September 2015, a copy of the foregoing document was served via Fed Ex to the following:

Phil Kirkpatrick
424 Church Street, Suite 2700
Nashville, Tennessee 37219

Walter McGill
P.O. Box 424
Idyllwyld, CA 92549

A handwritten signature in dark ink, appearing to read "David Aguilar", is written over a horizontal line.

Dr. David P. Aguilar

Respectfully submitted,



Dr. David P. Aguilar

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Filing pro se